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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,987	04/27/2001	Thomas Ohlsson	P01,0100	1545

26574 7590 12/31/2003

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EXAMINER

OROEPEZA, FRANCES P

ART UNIT PAPER NUMBER

3762

DATE MAILED: 12/31/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/843,987

Applicant(s)

OHLSSON, THOMAS

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/20/03 (Amendment) & 11/24/03 (RCE).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The Applicant's submission filed on 11/24/03 has been entered.

### ***Response to Amendment***

2. The Applicant arguments are convincing, hence the rejection of record is withdrawn and a new rejection is established in the subsequent paragraphs.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-3 and 5-15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ohlsson (US 6488530).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

***Claim Rejections - 35 USC § 103***

5. Claims 1-3, 5, 6 and 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swenson et al. (US 5776057) in view of Faisandier (US 5669393) and further in view of Enszt et al. (US 6234830).

Swenson et al. disclose a virtual medical instrument. The virtual medical instrument may be implemented as a work station or discrete function boxes, read as an interface unit having an outer surface (figure 1; col. 2 @ 40- col. 3 @ 13; col. 3 @ 28-51; col. 4 @ 33-64; col. 6 @ 34 – col. 7 @ 30; col. 7 @ 41-47 and 56-62; col. 9 @ 46-57; col. 10 @ 14-24).

As related to claims 4-9 and 11-12, the selection of a protocol is related to use of a corresponding conduit set that is attached to the patient in a pre-established manner as shown on the display. It is inherent the conduit set is identified to ensure proper interconnections such that the proper conduit set is attached to the patient (col. 6 @ 62 – col. 7 @ 22).

As related to claims 2-15, the system has been defined in a functional manner. The grouping of the functional elements into one or multiple individual unit(s) is disclosed to enable

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multiple arrangements of components, hence meeting the requirements of different applications (e.g. the combining of the universal interface with the signal generator and a display screen). (col. 10 @ 1-24).

As discussed in the three previous paragraphs of this action, Swenson et al. disclose the claimed invention except for a signal from a signal generator received by the monitoring system designating the mating configuration.

Faisandier teaches interface programming using a signal from a signal generator received by the microprocessor, read as the monitoring system, to designate the mating configuration for the purpose of enable the system to be configured base on the electronic input signals to perform multiple varied monitoring functions associated with sensors and added measurement systems. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a signal from a signal generator received by the monitoring system designating the mating configuration in the modified Swenson et al. system in order to provide a simple electronic means of enabling the connections associated with potential complex patient monitoring that avoids modification of the hardware or cabling configurations of the system (col. 1 @ 13-19, 37-49 and 56-63; col. 2 @ 15-33; col. 3 @ 51-55; col. 4 @ 40-44 and 55-59).

As discussed in the previous five paragraphs of this action, modified Swenson et al. disclose the claimed invention except for the label placeable on the outer surface of the interface unit, carrying a permanently fixed visible indication of the mating configuration and the identification code.

Ensz et al. disclose a labeling system for use with an connector system and teach that it is known to place a permanently fixed removably placeable label on the outer surface of the interface unit to provide a visual manifestation to identify and enable tracing of the various ports, read to include information to identify the port to enable proper interconnection. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the instrument for performing medical diagnostic testing as taught by modified Swenson et al., with the removably placeable label as taught by Enszt et al. to clarify the connector/connection between the sensor and the monitoring system to enable a successful signal acquisition and processing process (abstract; figure 3; col. 3 @ 53-56; col. 4 @ 13-21; col. 6 @ 29-42).

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swenson et al. (US 5776057) in view of Faisandier (US 5669393) and further in view of Enszt et al. (US 6234830) and further in view of Fenzlein et al. (US 5425361). As discussed in paragraph 5 of this action, modified Swenson et al. disclose the claimed invention except for an element placeable on the outer surface of the interface unit containing machine-readable information and a means for reading the machine-readable information from the element.

Fenzlein et al. disclose a medical measuring apparatus and teaches that it is known to use a bar code reader (12) and bar codes to ensure a sensor is properly identified relative to the monitoring process (figure 1; col. 5 @ 36-50). It is obvious the bar code could be mounted on the interface unit and/or the sensor to serve the purpose of properly identifying the components and the intended connection arrangement. Therefore it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to modify the modified instrument for performing medical diagnostic testing as taught by modified Swenson et al., with the bar code reader and bar code identification as taught by Fenzlein et al. to provide an additional or alternate means to ensure the sensor is properly identified relative to the monitoring process to enable a successful signal acquisition and processing process (col. 1 @ 30-33 and col. 2 @ 1-8).

***Statutory Basis***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Conclusion***

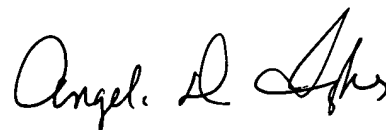
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4520 for regular communication and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist, telephone number is (703) 308-0858.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3762

FPO  
12/24/03



ANGELA D. SYKES  
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